

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>DEXTER JOHNSON and VANCE ESTES</b>	)	
	)	
Plaintiffs,	)	Case No. 08 C 713
	)	
	)	FIRST AMENDED
	)	COMPLAINT FOR VIOLATION
vs.	)	OF CIVIL RIGHTS
	)	
The <b>City of Harvey</b> and Harvey Police Commander )		
Annette Avant, Star No. 306, Detective Escalante, )		<b>JUDGE ZAGEL</b>
Star No. 412, and Police Officer K. Smth, Star No.648)		
Defendants.	)	JURY DEMANDED

**JURISDICTION AND VENUE**

1. This action arises under the United States Constitution and the Civil Rights Act of 1871 [42 U.S.C. Section 1983]. This court has jurisdiction under and by virtue of 28 U.S.C. Sections 1343 and 1331.

2. Venue is founded in this judicial court upon 28 U.S.C. Section 1391 as the acts complained of arose in this district.

**PARTIES**

3. At all times herein mentioned, plaintiff DEXTER JOHNSON ("JOHNSON") was and is a citizen of the United States, and was within the jurisdiction of this court.

4. At all times herein mentioned, plaintiff VANCE ESTES ("ESTES") was and is a citizen of the United States, and was within the jurisdiction of this court.

5. At all times herein mentioned defendant Harvey Police Commander Annette Avant, Star No. 306 ("Avant") was employed by the Harvey Police Department and was acting

under color of state law and as the employee, agent, or representative of the Harvey Police Department. This Defendant is being sued in her individual capacity.

6. At all times herein mentioned defendant Harvey Police Detective Escalante, Star No. 412 (“Escalante”) was employed by the Harvey Police Department and was acting under color of state law and as the employee, agent, or representative of the Harvey Police Department. This Defendant is being sued in his individual capacity.

7. At all times herein mentioned defendant Harvey Police Officer K. Smith, Star No. 648 (“Smith”) was employed by the Harvey Police Department and was acting under color of state law and as the employee, agent, or representative of the Harvey Police Department. This Defendant is being sued in his individual capacity.

8. At all times herein mentioned, the City of Harvey was a political division of the State of Illinois, existing as such under the laws of the State of Illinois. At all relevant times, the City of Harvey maintained, managed, and/or operated the Harvey Police Department.

### **FACTUAL ALLEGATIONS**

9. On or about April 2, 2007, Johnson and Estes were in the City of Harvey, County of Cook, State of Illinois.

10. At that time and place Johnson and Estes were informed by Avant, Escalante, and Smith that they were not free to leave the Harvey Police Department.

11. There was not probable cause to seize Johnson and Estes.

12. There was no legal cause to seize Johnson and Estes.

13. There was no warrant authorizing a seizure of Johnson and Estes.

14. Johnson and Estes did not consent to being seized.

15. By reason of the above-described acts and omissions of defendant, Plaintiffs sustained injuries, including but not limited to, humiliation and indignities, and suffered great mental and emotional pain and suffering all to their damage in an amount to be ascertained.

16. The aforementioned acts of Avant, Escalante, and Smith were willful, wanton, malicious, oppressive and done with reckless indifference to and/or callous disregard for Plaintiffs' rights and justify the awarding of exemplary and punitive damages in an amount to be ascertained according to proof at the time of trial.

17. By reason of the above-described acts and omissions of Avant, Escalante, and Smith, Plaintiffs were required to retain an attorney to institute, prosecute and render legal assistance to them in the within action so that they might vindicate the loss and impairment of their rights. By reason thereof, plaintiff requests payment by Defendants of a reasonable sum for attorney's fees pursuant to 42 U.S.C. Section 1988, the Equal Access to Justice Act or any other provision set by law.

**COUNT I**  
**Plaintiffs Johnson and Estes Against Defendants Avant, Escalante, and Smith for**  
**UNREASONABLE SEIZURE**

18. Plaintiffs hereby incorporate and reallege Paragraphs one (1) through seventeen (17) hereat as though fully set forth at this place.

19. By reason of the Defendants' conduct Plaintiffs were deprived of rights, privileges and immunities secured to them by the Fourth and/or Fourteenth Amendments to the Constitution of the United States and laws enacted there under.

20. The arbitrary intrusion by Defendants, into the security and privacy of Plaintiffs' persons was in violation of Plaintiffs' Constitutional Rights and not authorized by law. The Defendants violated the Plaintiffs' rights in the following manner: seizing plaintiffs inside the

Harvey Police Department was without any legal cause. The foregoing was unnecessary, unreasonable and excessive, and was therefore in violation of Plaintiff's rights. Therefore, the Defendants are liable to Plaintiff pursuant to 42 U.S.C. § 1983.

## COUNT II

### **Plaintiffs Johnson and Estes against Defendants Avant, Escalante, Smith and the CITY OF HARVEY For The State Supplemental Claim Of FALSE IMPRISONMENT**

21. Plaintiffs hereby incorporates and re-alleges paragraphs one (1) through seventeen (17) hereat as though fully alleged at this place.

22. Avant, Escalante, Smith, and the City of Harvey committed the tort of False Imprisonment when they refused to let Johnson and Estes leave the Harvey Police Department without any legal cause for this refusal.

23. The City of Harvey is liable to plaintiffs for the acts of Avant, Escalante, and Smith pursuant to the doctrine of *respondeat superior*.

24. As a result of these acts and/or omissions plaintiffs were damaged, and the defendants Avant, Escalante, Smith, and the City of Harvey are liable under the state supplemental claim of False Imprisonment.

WHEREFORE, the Plaintiffs, by and through his attorneys, ED FOX & ASSOCIATES, requests judgment as follows against the Defendants, and each of them:

1. That the Defendants be required to pay Plaintiff's general damages, including emotional distress, in a sum to be ascertained;
2. That the Defendants be required to pay Plaintiff's special damages;
3. That the Defendants be required to pay Plaintiff's attorneys fees pursuant to Section 1988 of Title 42 of the United States Code, the Equal Access to Justice Act or any other applicable provision;
4. That Defendants Avant, Escalante, and Smith be required to pay punitive and exemplary damages in a sum to be ascertained;

5. That the Defendants be required to pay Plaintiff's costs of the suit herein incurred; and
6. That Plaintiff have such other and further relief as this Court may deem just and proper.

BY: /s/Garrett Browne  
Garrett Browne

**PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY**

BY: /s/Garrett Browne  
Garrett Browne

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